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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,451	10/15/2001	Horst Filipp	FILIPP	3220
20151	7590	10/09/2003	EXAMINER	
HENRY M FEIEREISEN, LLC 350 FIFTH AVENUE SUITE 4714 NEW YORK, NY 10118			SAETHER, FLEMMING	
			ART UNIT	PAPER NUMBER
			3679	

DATE MAILED: 10/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/977,451

Applicant(s)

FILIPP, HORST

Examiner

Flemming Saether

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 8-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 19, 20 and 22 is/are rejected.
- 7) ☐ Claim(s) 6, 7 and 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Election/Restrictions

Applicant's election without traverse of species A in Paper No. 5 is acknowledged. However, contrary to the claims applicant reads on the elected species, claims 14 and 18 do not read on the elected species because the dowel of the elected species does not include an expansion zone at each end nor the threaded exterior. Also, claim 19 would not be generic because it requires two dowel component and that is only disclose in species A.

Claims 8-18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there currently being no allowable generic or linking claim. Election was made **without** traverse.

Claim Objections

Claims 1-7 and 19-22 are objected to because of the following informalities: In claim 1, line 7, the examiner suggests to delete "constantly" since it may contradict the "tapered" of claim 4; in claim 5, "over" is not properly descriptive since the pocket would not be "over" the internal thread in fact, the pocket would not allow for any threads other than the expansion ones; in claim 6, the dowel having at least one threaded bore is a double inclusion and "outside" is unclear; in claim 19, the examiner suggests the preamble read a --dowel assembly-- since more simply the dowel is being claimed and; in claim 22, there is no antecedent for "the handles". Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1- 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Fischer (DE 39 27 779). Fischer discloses dowel comprising a dowel component (1) having a slotted (at 4) expansion zone (3) with a tapering internal thread which receives a spreader screw (2) that is shorter than an internal thread. The internal thread (14) at an end of the dowel is for receiving a fastening screw. There is further shown an internal thread of the same nominal diameter as the expansion screw (at 8) and, the pocket is read as the enlarged portion (at 14).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19, 20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer in view of Lind (US 5,531,535). Fischer discloses an expansion dowel as described above but, does not disclose pair of dowels. Lind teaches to a pair of the

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same dowels (4 and 5) used together with a common fastening member (6). At the time the invention was made, it would have been obvious for one of ordinary skill in the art to provide a pair of the dowels disclosed in Fischer connected with a common fastening screw in order to secure together two members each having a blind hole as taught in Lind. Such an arrangement would provide an optimal application of the Fischer dowel. The combination with the handle is simply an intended use.

Allowable Subject Matter

Claims 6, 7 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and the correction of the claim objections.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 703-308-0182. The examiner can normally be reached on Monday through Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne can be reached on 703-308-1159. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or

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not in applicant's copy



Flemming Saether
Primary Examiner
Art Unit 3679